

Serial No. 09/978,516

REMARKS

The undersigned wishes to extend appreciation to Examiner Durand for the courtesies extended in a telephonic conference of September 9, 2003 and a telephonic message of September 22, 2003. The substance of that telephonic conference is hereby confirmed and expanded upon.

As set forth in the Description of the Related Art of the present application, the slots 112 of the bumper 17 must be aligned with the ports 80 in Golsch which causes difficulty and inconvenience in the assembly procedure. These deficiencies are removed by providing a bumper which defines an annular gap with the cylinder. The Examiner contended the slots 112 of Golsch are arranged in an annular manner, that portions of the bumper inside of the slots 112 were not in contact with the inner peripheral wall of the cylinder and that the inclined end of bumper 70 could be considered to be an annular gap. However, it was agreed that the structures of Golsch cited in the present application were different than the structures of the present invention. Thus, the obstacles to allowance are believed to be definitional rather than patentable in nature.

It was indicated to the Examiner that rather than argue about the definition, that a new definition be provided. The Examiner suggested that the words "a portion of the bumper" be eliminated and the annular gap be further defined to prevent the manner that the Examiner was reading the claim. It should be appreciated although it is strongly believed that the claims as previously amended when construed in the context of the specification and drawings would not read on the slots of Golsch, claim 1 has been further amended to further define the present invention and in a manner to distinguish over Golsch in a spirit of conciliation to advance prosecution of the present application. Additionally, and in light of the September 22nd telephonic message, claim 1 was further amended to recite that the plural ports are within the axial extent of the annular gap, which clearly is not the case in Golsch. Further, the other prior art does not suggest overcoming this deficiency in Golsch. As an example, Boothby and Kemper do not suggest an annular gap and the driving element or an annular gap in communication with ports in the cylinder. It is respectfully submitted that the rejection of claim 1 and the claims which depend therefrom has been overcome. Favorable reconsideration is respectfully requested.

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Claims depending from claim 1 have been amended and/or further define the present invention to distinguish over the prior art. Thus, these claims are believed to be allowable for that reason as well as depending from claim 1. Favorable reconsideration is respectfully requested.

As discussed, all of the claim amendments do not raise issues which were not previously argued in the Amendment filed on February 7, 2003, but are merely intended to define the differences discussed therein and in a manner to remove obstacles to allowance. Thus, entry of this Amendment should be given to place the application in better condition for allowance or appeal.

Therefore, since the claims of the present application have been shown to include limitations directed to the features of applicant's nail driving tool which are neither shown, described, taught, nor alluded to in any of the references cited by the Examiner, whether those references are taken singly or in any combination, the Examiner is requested to allow claims 1-5, 7, 9-11 and 13-16, as amended, of the present application and to pass this application to issue.

Respectfully submitted,

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Dated: September 22, 2003

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